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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/668,120	09/23/2003	Leonard T. Chapman	54767.8064.US00	1992
34055	7590	03/04/2005		
PERKINS COIE LLP POST OFFICE BOX 1208 SEATTLE, WA 98111-1208			EXAMINER MATHEWS, ALAN A	
			ART UNIT 2851	PAPER NUMBER

DATE MAILED: 03/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/668,120

Applicant(s)

CHAPMAN, LEONARD T.

Examiner

Alan A. Mathews

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,5,7,9,10,14 and 16 is/are rejected.
- 7) ☒ Claim(s) 2-4,6,8,11-13,15,17-19 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>1/13/04 &amp; 1/16/04</u> . | 6) <input type="checkbox"/> Other: ____.  |

## DETAILED ACTION

### *Claim Objections*

1. Claims 6 and 8 are objected to because of the following informalities: In claim 6, line 2, "maintaining the track section is a level position" should apparently be "maintaining the track section in a level position". In claim 8, line 2, there is no proper antecedent basis for "the track section". Appropriate correction is required.

### *Double Patenting*

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 1 and 7 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-9 of U.S. Patent No. 6,450,706. Although the conflicting claims are not identical, they are not patentably distinct from each other because

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claim 1 of U.S. Patent No. 6,450,706 discloses a camera crane comprising: post assembly; a boom arm pivotally connected to the post assembly; a counter weight platform connected to a second end of the boom arm at a second pivot joint (i.e. pivotally connected to a second end of the boom arm); a track section arm attached to a first end of the boom arm at a first pivot joint (i.e. pivotally attached to a first end of the boom arm); a track section attached to the track section arm; and a camera frame linearly movable along the track section, with the camera frame including a base plate for supporting the camera. With respect to claim 7 of the instant application, claim 1 of U.S. Patent No. 6,450,706 discloses a boom arm, a track section arm (front section) attached to a first end of the boom arm at a first pivot joint; a counter weight platform at a second end of the boom arm, and a leveling rod attached to the counter weight platform and to the track section arm (front section).

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claim 5 is rejected under 35 U.S.C. 102(b) as being anticipated by Maugard (U. S. Patent No. 2,156,862). Maugard discloses in figure 1 a post assembly 6 and a boom arm 16 pivotally connected the post assembly. Element 25 is the balancing means. Figures 1 and 3 show a track section which includes elements 35 and 36 which are attached to the boom arm to allow pivoting

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movement of the track section relative to the boom arm about a first axis, and about a second axis perpendicular to the first axis. The ball 34, itself, **allows** pivoting about two perpendicular axes. Element 32 also allows pivoting.

6. Claim 7 is rejected under 35 U.S.C. 102(b) as being anticipated the German patent document 3334428 A1. German patent document 3334428 A1 discloses in figures 1 and 4 a boom arm 12 with a front section including 30, 32, and 33. the front section is pivotable about 38 in one axis and about 29 in a second axis. Element 57 in figure 1 is the counter weight platform at a second end of the boom arm. Element 40 is the leveling rod.

7. Claims 9 and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Kokush (U. S. Patent No. 5,856,862) . Kokush discloses in figure 1 a post assembly 3 and a boom arm (or crane arm) 11. Element 26 is considered to be a front section and element 7 is considered to be a rear section. The counter weight platform comprises elements 8 and 9. The support member 16 is attached to the front section and the rear section.

8. Claims 9, 10, 14, and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Chapman (U. S. Patent No. 5,671,932). Chapman '932 discloses in figure 1 and column 2, lines 53 – 50, a post assembly 24 and 25. Boom arm (or crane arm) 12 is pivotally attached to element 24. The front section includes the support structure for camera 14 in figure 1. The rear section includes support structure for element 20 in figure 1. The counter weight platform includes

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weight bucket 20. The support member includes one of the several rods shown in figure 1 that is attached to both the front section and the rear section. With respect to claim 10, column 4, line 34, discloses a leveling rod 208. With respect to claim 14, the front section is offset from the rear section. The front section is even more offset from the rear section when the crane arm is raised at an angle.

***Allowable Subject Matter***

9. Claims 6, 8, 11-13, 15, and 17-19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Claims 1-4 would be allowable subject to filing a proper terminal disclaimer. The reasons for the indicated allowability of the claims are as follows:

The prior art does not disclose or suggest a leveling rod pivotably attached to the counter weight platform and to the track section arm, and a track section pivotably attached to the track section arm, and a camera frame linearly movable along the track section in combination with all the other elements recited in independent claim 1

The prior art does not disclose or suggest leveling means for maintaining the track section in a level position as the boom arm pivots relative to the post assembly in combination with all the other elements recited in the parent to dependent claim 6.

The prior art does not disclose or suggest a camera frame linearly movable along the track section, with the camera frame including a base plate for supporting a camera in combination with all the other elements recited in the parent claim to dependent claim 8.

The prior art does not disclose or suggest wherein the support member comprises a rigid metal arc integrally joined with the front and rear sections in combination with all the other elements recited in the parent claim to dependent claim 11.

The prior art does not disclose or suggest at least one spring connected to the rear section and the post assembly for balancing the crane arm in combination with all the other elements recited in the parent claim to dependent claim 12.

The prior art does not disclose or suggest a braking member pivotably attached to the post assembly at the pivot joint and moveable along the support member in combination with all the other elements recited in the parent claim to dependent claim 13.

The prior art does not disclose or suggest one or more hand weights slidable along the rear section in combination with all the other elements recited in the parent claim to dependent claim 15.

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The prior art does not disclose or suggest at least one spring connected to the rear section of the crane arm and the post assembly for balancing the crane arm in combination with all the other elements recited in the parent claim to dependent claim 17.

The prior art does not disclose or suggest a braking member pivotably attached to the post assembly and moveable along the support member in combination with all the other elements recited in the parent claim to dependent claim 18.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alan A. Mathews whose telephone number is (571) 272-2123. The examiner can normally be reached on Monday through Friday from 8:00 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Judy Nguyen can be reached on (571) 272-2258. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Alan A. Mathews  
Primary Examiner  
Art Unit 2851

AM